

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

1104

**CWP-550-2011 (O&M)
Date of decision:18.04.2017**

Inderjeet Singh

....Petitioner

Versus

State of Haryana and others

.... Respondents

CORAM: Hon'ble Mr. Justice P.B. Bajanthri

Present: Mr.S.N.Yadav, Advocate with
Mr. Aditya Yadav, Advocate for the petitioner.

Mr. Hitesh Pandit, AAG, Haryana.

None for respondent No.5.

P.B. Bajanthri, J. (Oral)

The petitioner has questioned the validity of inquiring officer's report, dismissal, appellate and revisional orders vide Annexure P10, P13, P14 and P15 respectively. Perusal of memorandum of appeal of the petitioner it is evident that petitioner has raised number of contentions in support of his appeal against the order of dismissal before the appellate authority. Whereas, the appellate authority has not considered each of the contention except stating that "I have carefully examined the appeal preferred by the appellant, departmental enquiry file and other relevant record. The departmental enquiry was conducted in accordance with the

rules/procedure and does not suffer from any legal infirmity. The appellant was heard in person on 04.01.2010 by the undersigned but he was unable to put forth any justified contention to disprove the charges already proved against him on the basis of regular departmental enquiry. The punishment awarded to the appellant is reasonable, justified and commensurate with the misconduct on the part of the appellant. The appeal is without any merit.”

2. Similarly the petitioner has filed revision petition before the revisional authority. The revisional authority has also not considered the petitioner's revision petition. With reference to various contentions raised in the revision petition, the revisional authority passed following order:-

“ I have carefully gone through the revision petition, departmental enquiry file and other relevant documents. The departmental enquiry has been held as per procedure laid down in PPR and does not suffer from any legal infirmity. No fresh material has been produced by him. Various pleas raised by the revisionist have been examined and found to be devoid of any merit. Keeping in view the above facts, I find no mitigating circumstances to interfere with the orders of Punishing/Appellate authorities. I, therefore, reject the revision petition of Ex-EHC Inderjeet Singh, No.1356/Hisar. ”

3. Learned counsel for the petitioner submitted that the appellate authority as well as revisional authority have failed to appreciate the contentions raised by the petitioner in his memorandum of appeal as well as revision petition. Thus, there is non-application of mind by both the authorities. Consequently, orders are liable to be set aside.

4. Per contra, learned counsel for the respondents vehemently contended that appellate authority as well as revisional authority are affirming the orders of the revisional authority. Therefore, they have not assigned the reasons while affirming the orders of the revisional and appellate authorities respectively. Thus, the petitioner has not made out a case.

5. Heard learned counsel for the parties.

6. Perusal of the contentions raised by the petitioner in his appeal as well as revision petition it is evident that the petitioner has raised number of contentions. The same has not been dealt with by the appellate as well as revisional authority as is evident from the orders of the appellate and revisional authorities dated 06.01.2010 and 06.12.2010 respectively. The appellate authority and revisional authority are exercising quasi judicial function that to they are dealing with the dismissal penalty order against the petitioner. Therefore, even assuming that if they want to affirm the order of the disciplinary authority they are bound to consider the contentions raised by the petitioner in his appeal and revision petition. Supreme Court in the case titled as ***Divl. Forest Officer, Kothagudem & Ors. Versus Madhusudhan Rao*** reported in 2008(3) SCC469 held that appellate authority is required to consider appeal with reference to the provision provided for consideration of appeal. Relevant extract of the judgment reads as under:-

“20. It is no doubt also true that an appellate or revisional authority is not required to give detailed reasons for agreeing and confirming an order passed by

the lower forum but, in our view, in the interests of justice, the delinquent officer is entitled to know at least the mind of the appellate or revisional authority in dismissing his appeal and/or revision. It is true that no detailed reasons are required to be given, but some brief reasons should be indicated even in an order affirming the views of the lower forum.”

Having regard to these facts and circumstances, order of appellate as well as revisional authorities are hereby set aside and the matter is remanded to appellate authority to pass fresh order on the petitioner's appeal.

The above exercise shall be completed within a period of 3 months from the receipt of the order .

CWP stands allowed.

18.04.2017

pooja saini

**(P.B.BAJANTHRI)
JUDGE**

Whether speaking/reasons

Yes/No

Whether Reportable:

Yes/No